defendants, an answer filed by the administrator contesting the right of plaintiff to have specific performance, and denying the allegations of the bill, does not inure to the benefit of his codefendants."

Sanders, J., in delivering the opinion of the court, said in part: "I am not unmindful of the numerous authorities holding that where a joint defendant answers a bill, and by proof removes the matter of equity set up against him and the other defendants, who fail to answer, there will be no decree against the defendants so failing to answer. But this is where the interest of the parties is joint, and where the equities are not separate and distinct. But a different rule prevails where the interests of the defendants are not joint, and where the bill alleges a distinct matter of equity against the party failing to answer. Here the relief sought against the widow, trustees, and heirs is entirely separate and distinct from that sought against the administrator. One was a decree for land, and the other a decree for money; and the plaintiff, if no intervening equity had occurred, was bound to take the land, and not the money. He could not get both, and the fact that they both arose out of the same transaction makes no difference. Ferrell could have sought either separately. The defense made by a defendant can only go to the separate cause of action, and the relief sought against him. But where the parties are not jointly interested, or the defense is merely personal to the defendant filing the answer, an answer filed by one defendant does not inure to the benefit of his codefendant." Hogg's Eq. Pro. sec. 405.

The case of *Terry* v. *Fontaine*, 83 Va. 451, 2 S. E. 743, was distinguished. In the latter case, an administrator was called upon to answer a creditor's bill and did answer the same denying the fraud. The heirs failed to answer, and the fraud was not proved. The Supreme Court of Virginia held that the complainant was not entitled to a decree *pro confesso* against the heirs, as the defense made by the administrator, *not being purely personal to him*, inured to the benefit of all the defendants.

The West Virginia court, in distinguishing this case from the case at bar, points out that the administrator, being the owner in law of the proceeds of lands that had been sold (which were charged to be the lands of the complainant), was required to defend the title thereto, and in defending the title as administrator, the defense would necessarily also be for the benefit of the heirs.

C. B. G.

EQUITY—SPECIFIC PERFORMANCE—CONTRACT TO MAKE WILL.—Suit for specific performance of an alleged parol agreement by defendant's intestate to leave all his property to complainant. The proof showed that complainant, a young physician, at the instigation of deceased, an older physician of marked ability, entered into a partnership with him, cared for him in many ways and was often referred to by him as his "son" who "when I am gone gets all my estate"; but that complainant was benefited rather than injured by the partnership. *Held*, that complainant was not entitled to the relief sought. *Rosenwald* v. *Middlebrook* (1905), — Mo. —, 86 S. W. Rep. 200.

It seems to be generally accepted that a person may bind himeslf by a parol agreement to make a particular disposition of his property, both real and personal, by will, though as regards realty the authorities are not harmonious. *Johnson* v. *Hubbell*, 10 N. J. Eq. 332, 66 Am. Dec. 773; *Lamb* v. *Hinman*, 46 Mich. 112, 8 N. W. Rep. 709. Such an agreement may be made in consideration of personal care and services such as are characteristic of the domestic relations. *Leonardson* v. *Hulin*, 64 Mich. 1, 31 N. W. Rep. 26; *Laird* v. *Vila*, — Minn. —, 100 N. W. Rep. 656; *Brown* v. *Sutton*, 129 U. S. 238. The remedy for a breach depends upon the nature of the services. If their value cannot be estimated specific performance will be decreed, otherwise an action must be brought for damages. In many instances the denial of specific performance would accomplish a fraud. *Winfield* v. *Boen*, 65 N. J. Eq. 636, 56 Atl. Rep. 728; cf. *Grant* v. *Bradstreet*, 87 Me. 583, 33 Atl. Rep. 165, and equity will follow property fraudulently conveyed to a third party. *McCullom* v. *Mackrell*, 13 S. D. 262, 83 N. W. Rep. 255; cf. *Leonardson* v. *Hulin*, supra. Specific performance will not, however, be decreed unless the complainant shows by clear and convincing evidence, a complete contract properly executed on his own part. *Spencer* v. *Spencer*, 26 R. I. 237, 58 Alt. Rep. 766; *Stellmacher* v. *Bruder*, 89 Minn. 507, 95 N. W. Rep. 324; *Richardson* v. *Orth*, 40 Ore. 252, 66 Pac. Rep. 925; *Rodman* v. *Rodman*, 112 Wis. 378, 88 N. W. Rep. 218, nor if it would work a hardship, as in case of a promise to give all one's property at death, made before marriage and there is a surviving wife without knowledge of such promise. *Owens* v. *McNally*, 113 Cal. 444, 45 Pac. Rep. 710, 33 L. R. A. 369; see also *Mahaney* v. *Carr*, 175 N. Y. 454, 67 N. E Rep. 903. In the principal case the complainant failed in his proof. The decision is undoubtedly correct both in principle and on authority. *Clawson* v. *Brewer*, — N. J. Eq. —, 58 Atl. Rep. 598; *Seitman* v. *Seitman*, 204 Ill. 504, 68 N. E. Rep. 461; *Briles* v. *Goodrich*, 116 Iowa 517, 90 N. W. Rep. 354.—*Michigan Law Review.*

FIXTURES—MACHINERY FOR PROSECUTION OF OIL AND GAS BUSINESS.—Machinery and other appliances necessary for the prosecution of the work, placed on land by a lessee under a lease for oil and gas purposes by which it is agreed that he shall have the privilege at any time to remove therefrom all machinery and fixtures placed thereon, are held, in *Gartlan* v. *Hickman* (W. Va.), 67 L. R. A. 694, not to become parts of the freehold, and to be removable by the lessee within a reasonable time after the forfeiture of the lease because of nonpayment of the rental.

COMMON CARRIERS—NEGLIGENCE—INTERURBAN LINES.—The law of negligence governing the standing on a platform of a moving street car in a municipality is held, in *Cincinnati, L. & A. Electric Street R. Co.* v. *Lohe* (Ohio), 67 L. R. A. 637, not to be applicable to the case of standing on such platform of a moving interurban car in the open country; but the rule governing such a case is held to be the same as that in the case of steam cars. A note to this case reviews the authorities on the question Is an